

C O N T A C T P E R S O N S

Names : Larry Wexler Joleta Reynolds
Telephone : (202) 205-5390 (202) 205-5507

OSEP 98-4

February 26, 1998

MEMORANDUM

To : Interested Parties

From : Thomas Hehir
Director, Office of Special Education Programs

Subject : Guidance Related to State Program Improvement Grants to Improve Education For Children with Disabilities

The purpose of the attached questions and answers is to provide initial guidance on the requirements of the Individuals with Disabilities Education Act Amendments of 1997 (IDEA 1997) as they relate to State Program Improvement Grants to Improve Education for Children with Disabilities (SIG). The purpose of this discretionary grant program is to assist State educational agencies, and their partners referred to in section 652(b) of IDEA 1997, in reforming and improving their systems for providing educational, early intervention, and transitional services, including their systems for professional development, technical assistance, and dissemination of knowledge about best practices. The goal of the program is to improve results for children with disabilities. We are aware that many State Educational Agencies (SEAs) have begun preliminary activities relative to exploring the possibility of responding to the anticipated Request for Proposal. This guidance is being provided to assist those SEAs and their potential partners in this effort.

Thank you.

Following is a series of questions and answers that will serve as guidance for State Educational Agency in completing the grant application for a State Improvement Grant (SIG). The questions were chosen to provide additional insight into the statutory requirements contained in the grant application. The questions were generated from a number of sources including parents of students with disabilities, Regional Resource Centers, the Federal Resource Center, State Directors of Special Education, State Educational Agency staff and staff from the Office of Special Education Programs.

Eligible Applicants

1. Who may apply for a State Improvement Grant?

A State Educational Agency of one of the 50 States, the District of Columbia, or the Commonwealth of Puerto Rico or an outlying area (United States Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands).¹ (Sections 602(18), 602(27), 652(a), and 655(a)(1)(2)).

2. Can two or more SEAs apply jointly for a SIG?

No. A State applying for a State Improvement Grant shall submit an individual application. However, included in the application will be a description of how: (1) the State will work to develop collaborative agreements with other States for the joint support and development of programs to prepare personnel for which there is not sufficient demand within a single State to justify support or development of such a program of preparation; and (2) the State will work in collaboration with other States, particularly neighboring States, to address the lack of uniformity and reciprocity in the credentialing of teachers and other personnel (Section 653(c)(3)(D)(iv) and (v)).

Partners

3. With whom is the State supposed to form partnerships and how are such partnerships structured?

Part D Subpart 1--State Program Improvement Grants for Children with Disabilities, Section 652 (b) describes three types of State partners. In order to be considered for a State Improvement Grant, a State educational agency must establish a partnership with individuals and organizations considered "Required Partners." Required partners are made up of two subsets of partners --those called "Contractual partners" and those called "Other partners." The SEA's contractual partners are local educational agencies and other State agencies involved in, or concerned with, the education of children with disabilities. These partners are called contractual because they must be parties to a formal "partnership agreement" that is explained further below in question four.

The "other partners" are individuals and organizations involved in, and concerned with, the education of children with disabilities, with whom the SEA must work in partnership to

¹Unless otherwise noted, the term "state" refers to the 50 States, the District of Columbia, the Commonwealth of Puerto Rico and the outlying areas (United States Virgin Islands, Guam, American Samoa and the Commonwealth of the Northern Mariana Islands).

implement the State improvement grant. Other partners may be, but the SEA is not required to make them, parties to the formal partnership agreement. Those “other partners” must include the Governor; parents of children with disabilities; parents of nondisabled children; individuals with disabilities; organizations representing individuals with disabilities and their parents, such as parent training and information centers; community-based and other nonprofit organizations involved in the education and employment of individuals with disabilities; the lead State agency for Part C; general and special education teachers, and early intervention personnel; the State advisory panel established under Part B; the State interagency coordinating council established under Part C; and institutions of higher education within the State.

In addition to required partners, the SEA, at its option, may include as partners individuals and organizations called “Optional Partners.” The SEA may include “optional partners” as parties to the formal partnership agreement or work in partnership with them, without them being parties to the partnership agreement. Those optional partners may include individuals knowledgeable about vocational education, the State agency for higher education, the State vocational rehabilitation agency, public agencies with jurisdiction in the areas of health, mental health, social services, and juvenile justice and other individuals.

4. What is the partnership agreement and what must it include?

Each State Improvement Plan submitted with the State’s application shall include a description of the partnership agreement entered into by the SEA with its contractual partners and with any “other” and “optional” partners who will be parties to the partnership agreement. As specified in the grant application package, the partnership agreement must specify the nature and extent of the partnership among the SEA, the LEAs, and other State agencies involved in, or concerned with, the education of children with disabilities. It must specify the respective roles of each member of the partnership in the implementation of the State improvement plan. The partnership agreement must also specify how the SEA, LEAs, and other State agencies identified above, will work in partnership with other persons and organizations involved in, and concerned with, the education of children with disabilities (these would be the “other partners” and any “optional partners”), and must specify the respective roles of each of these persons and organizations (Section 653(c)(1)(B)).

The partnership agreement must indicate that it is in effect for the period of the grant. The terms of the partnership agreement will determine whether the SEA will award subgrants or contracts to any of the partners listed in Section 654(a)(2)(A).

5. What is the connection between the partnership agreement and the SEA’s use of funds?

The SEA shall, as appropriate, award contracts or subgrants to LEAs, IHEs, and parent training and information centers identified in the partnership agreement to carry out the State improvement plan. To carry out the State improvement plan, the SEA may also award contracts and subgrants to other public and private entities, including the lead agency under Part C and other agencies that are partners, as well as public and private entities that are not partners. It is anticipated that an SEA will need and desire the resources of other individuals and organizations to develop and implement all of the systemic change, technical assistance, in-service and pre-service training, dissemination and assessment activities designated in the State improvement

plan. There is, however, no required amount of funds that must be used for contracts or subgrants (Section 654(a)(2)).

Funding availability and levels

6. What are the grant amounts to States?

The Secretary shall make a grant to each State educational agency whose application the Secretary has selected for funding under this subpart in an amount for each fiscal year that is: (1) not less than \$500,000, nor more than \$2,000,000, in the case of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico; and (2) not less than \$80,000, in the case of an outlying area (United States Virgin Islands, Guam, American Samoa and the Commonwealth of the Northern Mariana Islands (Section 655(a)). Beginning with fiscal year 1999, the Secretary may increase the maximum amount under (1) to account for inflation.

7. How will decisions be made regarding the amount of funds that states will receive if approved for a State Improvement Grant?

The Secretary will set the amount of each grant, within the limits outlined in the response to question 6, after considering: (1) the relative population of the State; (2) the types of activities proposed by the State; and (3) the amount of funds available for making the grants (Section 655(c)).

8. How will the connection between grant amounts and “need” be determined?

As previously stated in the response to question 7, the Secretary shall set the amount of each grant after considering: (1) the relative population of the State; (2) the types of activities proposed by the State or outlying area; and (3) the amount of funds available for making the grants. “Need” will be determined through the quality of the needs assessment performed under Section 653(b) including:

(1) an analysis of all information, reasonably available to the State educational agency, on the performance of children with disabilities in the State; (2) an analysis of State and local needs for professional development for personnel to serve children with disabilities; (3) an analysis of the major findings of the Secretary's most recent reviews of State compliance, as they relate to improving results for children with disabilities; and (4) an analysis of other information, for example, findings made by the Secretary's Office for Civil Rights, reasonably available to the State, on the effectiveness of the State's systems of early intervention, special education, and general education in meeting the needs of children with disabilities.

9. What will the Secretary consider in making an award on a competitive basis?

Using the selection criteria identified elsewhere in this application package, the Secretary expects to select for funding applications from States that demonstrate a need for improvement and effective strategies to meet those State needs. The application should show how the State plans to fulfill the purpose of the State Improvement Grant which is to assist State educational agencies, and their partners in reforming and improving their systems for providing educational, early intervention, and transitional services, including their systems for professional development, technical assistance, and dissemination of knowledge about best practices, to improve results for

children with disabilities. The Secretary may give priority to applications on the basis of need, as indicated by such information as the findings of Federal compliance reviews (Section 653(d)).

10. When will funds be available?

First year funds to support the State Improvement Grant will become available for obligation by the Federal Government on July 1, 1998 and must be obligated by the Federal Government by September 30, 1999.

Improvement strategies and use of funds

11. Can funds from the State Improvement Grants be distributed to LEAs on a competitive basis?

Yes. The statute does not provide a particular method for States to use when distributing State Improvement Grant funds to LEAs or other entities. When awarding and administering subgrants, under 34 CFR § 80.37(a), the State must follow state law and procedures. As long as the SEA's plan to contract or subgrant SIG funds is consistent with the partnership agreement and the funds are used to support the activities specified in the approved grant application, there is no statutory prohibition against the funds being distributed to LEAs on a competitive basis.

12. Can charter schools be involved as partners in the State Improvement Grant?

Yes. Charter schools are schools under contract -- or charter -- between a public agency and groups of parents, teachers, community leaders or others who want to create alternatives and choice within the public school system. Charter schools can be involved as partners in the State Improvement Grant, either as an LEA or as part of an existing LEA, consistent with the State charter schools law.

13. Does the "service obligation" apply to the use of State Improvement Grant funds if they are being used for scholarships?

No. The "service obligation" contained under the Personnel Preparation discretionary grant program, provides that a recipient of a scholarship funded by the Personnel Preparation program under Section 673(b),(c), (e), and to the extent appropriate (d), shall subsequently perform work in the field in which they were trained or repay the cost of the financial assistance. The service obligation only applies to scholarships awarded under the Personnel Preparation program.

14. Can funds be used to prepare early intervention personnel?

Yes, but only in limited circumstances. Under Section 654(b)(1) a State educational agency that receives a grant shall use not less than 75 percent of the funds it receives under the grant for any fiscal year to work with other States on common certification criteria or to ensure that there are sufficient regular education, special education, and related services personnel who have the skills and knowledge necessary to meet the needs of children with disabilities and developmental goals of young children. This Section ensures that based on the needs assessment, the State focuses at least 75% of the funds received under the State Improvement Grant on the professional development and training of regular education, special education, or related services personnel.

Only 50% of the funds must be used on professional development if the State can demonstrate to the Secretary that it has sufficient personnel.

Training that prepares personnel to deliver early intervention services that could not also be considered regular education, special education, or related services would not be a permissible use of the 75%, or 50% as the case may be, of the funds. However, it would be permissible for early intervention personnel to participate in training in those areas of special education and related services that would be useful to them, even if the training is funded using the 75% of the funds. There is no limitation on the use of the remaining 25% of the funds received under the SIG; it can be used to train personnel to provide early intervention services or for any other activity in an approved SIG plan.

15. What is the relationship of the SIG to the State set aside under Part B?

In order to carry out the activities proposed in the State's SIG application, a State may choose to supplement the State Improvement Grant award with funds from the IDEA Part B State set aside (i.e., the portion of the IDEA, Part B grant awards retained for use by the SEA under Sections 611(f) and 619(d) of the Act for discretionary purposes).

16. Can funds from sources other than the SIG be used to support the required activities for awards under this program?

Yes. In addition to the SIG award, funds from other sources (e.g., other IDEA discretionary grants, Part B State set aside funds, preschool grants) may be used, so long as those activities are permissible under the funding statute and regulations to carry out any activities described in the State's SIG application. States may also use funds from private sources (e.g., foundations) to carry out activities described in the State's application. In its State Improvement Plan, the State must describe the amount and nature of funds from any other sources, including the Part B funds retained for use under Sections 611(f) and 619(d) of the Act and Part D discretionary funds that will be committed to the SIG program.

17. Can SIG funds be used for direct services to children with disabilities?

Yes. The statute does not forbid the use of SIG funds for direct services to children with disabilities; however, funding for these services must come from the 25% or 50% of the grant award, as the case may be, not obligated by statute to fund professional development activities or to work with other States on common certification criteria. In addition, the need for direct services must be one of the critical aspects of early intervention, general education and special education identified in the State's needs assessment. The direct services improvement strategy must be described in the State's application and be consistent with the purpose of the grant, which is to assist State educational agencies, and their partners in reforming and improving their systems for providing educational, early intervention, and transitional services, including their systems for professional development, technical assistance, and dissemination of knowledge about best practices, to improve results for children with disabilities.

Strategies Used to Address Identified Needs

18. Is interstate personnel preparation mandatory?

No. The State is required to describe how it will work to develop collaborative agreements with other States for the joint support and development of programs to prepare personnel for which there is not sufficient demand within the State to justify support or development of such a program of preparation (Section 653(c)(3)(D)(iv)). If the State demonstrates, through its needs assessment, that there is sufficient demand within the State to support its own personnel preparation programs, then interstate collaborative agreements are not required.

19. Is training of general education personnel required?

In its application, the State is required to include a description of how the State will prepare general as well as special education personnel with the content knowledge and collaborative skills needed to meet the needs of children with disabilities (Section 653(c)(3)(D)(i)).

20. Is training of parents required?

In its application, the State is required to include a description of how the State will provide for the joint training of parents and special education, related services, and general education personnel (Section 653(c)(3)(D)(x)).

Role of Regional Resource Center/Technical Assistance and Dissemination Projects

21. What role can the Regional Resource Center (RRC) play in the development of the State Improvement Plan and grant application?

The RRC is encouraged to provide general technical assistance to States in the development of their State Improvement Plans. An RRC is funded to provide technical assistance and resources to all states within its region and must do so on an equitable basis across those States. Helping States improve their special education programs is the central mission of the RRCs and many State activities related to the State Improvement Grant program will be crucial in these improvement efforts. It would be inappropriate, however, for an RRC to help a State in drafting its grant application or even to provide technical assistance on strategies to improve the competitiveness of a State's application because it could be viewed as providing a competitive advantage to one potential applicant over another. On the other hand, helping States for example, with data analyses, needs assessments and facilitating meetings concerning planning the States' improvement activities could be, except as noted above, a part of the RRC's technical assistance activities to the States in their region. RRCs can also assist States in their implementation of a State Improvement Grant once those grants are awarded.

22. Can the State use SIG funds to subcontract or contract with the University or entity in which the RRC is located to carry out SIG activities?

Yes. The State can use SIG funds to subgrant or contract with the University or entity in which the RRC is located to carry out SIG activities. However, the University or other entity

would need to ensure that personnel time and other resources covered by the RRC's cooperative agreement with the Department are not used to work on SIG activities performed under such a subgrant or contract and that work done under such other subcontract or contract is not represented as being performed as part of the cooperative agreement with the Department of Education.

23. Can Technical Assistance and Dissemination (TA&D) projects funded by OSEP play a role in SIG activities?

Similarly to RRCs, TA&D projects funded by OSEP must ensure that the services they provide are fairly and evenly available to their respective audience (under the terms of their OSEP funding agreement/grant/contract) in all States, that the proposed SIG activity is permissible under the terms of the particular Project's funding agreement/ grant/contract/ with OSEP and that Projects do not accept SIG funds under contract or grant with an SEA for activities they are currently receiving Federal funds to provide. In addition, TA&D projects, like the RRCs, should not engage in activities that could be seen as providing a competitive advantage to any one State over others in the SIG competition.

Relationship between State Improvement Plan and other Federal statutes and requirements

24. What is the link between the Comprehensive System of Personnel Development (CSPD) and the SIG? What are the similarities and differences?

The requirements for a CSPD as amended by IDEA 97 must be implemented by July 1, 1998 regardless of whether or not a State receives a SIG. Under Section 612(a)(14) of IDEA, in order to be eligible for funding under Part B, a State must have in effect a comprehensive system of personnel development that is designed to ensure an adequate supply of qualified special education, regular education, related services, and early intervention personnel and that meets the requirements for the personnel development sections of the State Improvement Plan addressing needs assessment and improvement strategies. It is intended that the CSPD meet the SIG personnel development requirements so that it may serve as the framework for the State's personnel development part of a SIG grant application.

25. To what extent does this plan have to be linked to the Elementary and Secondary Education Act of 1965 (ESEA) and the Rehabilitation Act of 1973?

To the "maximum extent possible" State Improvement Plans must be linked to State plans under ESEA and the Rehabilitation Act of 1973. The IDEA Amendments of 1997 emphasize that children with disabilities have access to the general curriculum and general educational reforms. Although the legislation does not mention integration with any other state plans under any other Federal statute, because the State Improvement Plan is focused on systems change for students with disabilities, integration with relevant state plans or projects would be beneficial (Section 653(a)(2)(A)).

26. What is the relationship between the performance goals and indicators a State must have to be eligible for Part B and the State Improvement Plan?

Under Part B (612(a)(16)), in order to be eligible to receive financial assistance under Part B, the State must have in place by July 1, 1998 performance goals for children with disabilities that must promote the purposes of the IDEA and be consistent, to the maximum extent appropriate, with other goals and standards developed for children established by the State and performance indicators to assess progress toward achieving those goals. A State must have developed those performance goals and indicators in order to apply for a State Improvement Grant because in conducting the needs assessment required as part of its application, the State shall identify those critical aspects of early intervention, general education, and special education programs that must be improved to enable children with disabilities to meet the performance goals and indicators established by the State for the performance of children with disabilities under Section 612(a)(16). In submitting the required SIG performance reports to the Secretary under Section 653(f), the State shall describe the progress of the State in meeting the performance goals established under section 612(a)(16), analyze the effectiveness of the State's strategies in meeting those goals, and identify any changes in the strategies needed to improve its performance.

Monitoring and Corrective Action Plans

27. How is the State Improvement Grant aligned with Federal compliance reviews?

There are three areas in which the State Improvement Grant aligns with Federal compliance reviews. First, the State improvement plan must include an analysis of the major findings of the Secretary's most recent reviews of State compliance, as they relate to improving results for children with disabilities (Section 653(b)(2)(C)). The second is that the State improvement plan must include a description of strategies that will address systemic problems identified in Federal compliance reviews, including shortages of qualified personnel (Section 653(c)(3)(E)). The third area of alignment with monitoring is that in determining competitive awards the Secretary may give priority to applications on the basis of need, as indicated by such information as the findings of Federal compliance reviews (Section 653(d)(2)).

28. Can the State Improvement Grant funds be used to address deficiencies identified in Federal compliance reviews?

Yes, if the activities to address the deficiencies are consistent with the purposes of the grant and described in the State's application. If, for example, a Federal compliance review identified that a personnel shortage impacted on the provision of a free appropriate public education to students with disabilities, then it would be consistent with the purposes of the grant to use grant funds to address the personnel shortage.

Applications, Length of Awards, and Reapplication

29. Can the first grant be written as a planning grant?

No. The purpose of the SIG program is to assist State educational agencies, and their partners referred to in Section 652(b), in reforming and improving their systems for providing educational, early intervention, and transitional services, including their systems for professional development, technical assistance, and dissemination of knowledge about best practices, to improve results for children with disabilities. In order to be funded a State must

include in its application improvement strategies that were developed to address State and local needs identified in the State needs assessment. The purpose of the needs assessment is to provide the necessary information to facilitate the development of a State improvement plan that identifies those critical aspects of early intervention, general education, and special education programs that must be improved to enable children with disabilities to meet the goals established by the State under Section 612(a)(16). In conjunction with the needs assessment, the improvement strategies (Section 653(c)) subsumed in the State Improvement Plan constitute the State's plan for the use of SIG funds.

30. Is there a page limitation for the application?

No. There is no page limitation for first year applications. However, in order to facilitate the peer review process, applicants are advised to submit applications that address all of the requirements of the application and are well written, organized, succinct, and address each of the selection criteria. It is also suggested that the requirements be addressed in the order in which they appear in the application package.

31. What grant period can a State request in its initial application?

A state may request a grant of from one to five years. However, the Secretary may award a grant that is shorter than the state requests, but not less than one year, if the state's application does not sufficiently justify the full requested duration.

32. If a project is funded for less than five years, can it be extended later?

No, with the exception of relatively short "no-cost" extensions that are sometimes given to allow the completion of project activities. These extensions do not award new funds or approve new activities.

33. After a state completes one State Program Improvement Grant, can it apply for another? If so, will it compete against all applicants or only against other states that have received previous grants?

Yes, a state can apply for another SIG after it completes one. It will be in competition with all applicants, not just those with previous grants. The Secretary may give priority to applications on the basis of need (Section 653(d)(2)).

34. If a state applies unsuccessfully in one year, will it be able to apply again?

Yes.

35. Will a project be approved and funded all at once or a year at a time?

At the time of the initial grant award, the project duration of one to five years will be determined and budgets for all years of the grant will be established. However, funds can only be awarded one year at a time. States receiving multi-year grants will submit annual performance reports to demonstrate that their grants are making "substantial progress." Funding for project years after the first will be based, in part, on these reports. This is not

part of the competitive process of awarding funds, and it is expected that funding will be continued each year for the duration of the project, provided that substantial progress is demonstrated and that Congress continues to fund the program.

- 36 Does funding have to be the same for all years of the project?

No.

Other Funding

37. If a State does not receive or apply for a State Improvement Grant, will the State be eligible for a Part D CSPD grant?

Yes. The Department will fund continuation awards from FY 1998 funds for Part D [prior law] CSPD grants to States that do not receive a State Improvement Grant. Because CSPD activities are incorporated into the State Improvement program, however, the Department will not fund Part D [prior law] CSPD continuation awards for States that receive a State Improvement Grant.²

38. Does a State's receipt of a Transition State Systems Change Grant or Severe Disabilities Systems Change Grant impact on its eligibility to apply for or receive a SIG? Is there any funding relationship between the State Improvement Grant and the Transition State Systems Change Grant and Severe Disabilities Systems Change Grant?

No. It is anticipated that assuming the availability of funds, Transition State Systems Change Grants and Severe Disabilities Systems Change Grants previously awarded will be funded until the end of their project period whether or not the State also receives a State Improvement Grant.³

² The purposes of the old CSPD grants were subsumed under the State Improvement Grants in the reauthorization.

³ Unlike the CSPD grants discussed above, State Transition or Severe Disabilities Grants are one-time, 5 year grants specifically targeted to transition systems, with a vocational component, or to severe disabilities. The Department would not want any State to have to discontinue the work they have begun on their transition or severe disabilities systems so those grants will be funded (based on availability of funds) until they expire.